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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,539	03/01/2004	Mario Festag	16274.37b.1	3380

22913 7590 08/28/2007
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

HAMMOND, BRIGGITTE R

ART UNIT	PAPER NUMBER
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2833

MAIL DATE	DELIVERY MODE
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08/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/791,539	Applicant(s) FESTAG ET AL.	
	Examiner Brigitte R. Hammond	Art Unit 2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,3-5, 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldron 3,530,479 in view of Applicant's Admitted prior Art (AAPA) as disclosed on page 1 of the instant application. Regarding claims 1 and 13, Waldron discloses a housing-shaped shielding plate B comprising: a shielding plate body having a first region that could be disposed inside a metallic structure, said first region having a plurality of wall sections, and a second region to be inserted through a cutout of the metallic structure, said second region including a discontinuity/port through which electromagnetic waves produced within the shielding plate body occurs; wherein, at least one of said plurality of wall sections of said first region of said shielding plate body having at least one elongated opening S formed therein being a slot antenna through which electromagnetic waves produced within said shielding plate body are coupled out of said shielding plate body. Waldron does not disclose the plate having an optoelectronic component/transceiver. However, Applicant discloses that it is well known to provide an optoelectronic component with shielding plates for electromagnetic shielding. Therefore, it would have been obvious to one of ordinary skill to provide an component/optoelectronic receiver to make use of the shield.

Regarding claim 3, said slot antenna runs in a longitudinal direction of said shielding plate body.

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Regarding claim 4, said slot antenna runs at an angle relation to a longitudinal direction of said shielding plate body.

Regarding claim 5, said plurality of wall sections includes side wall sections and said slot antenna extends between opposite edges of one of said wall sections.

Regarding claim 8, said shielding plate body forms a housing.

Regarding claim 9, said at least one of said plurality wall sections is a side wall.

Regarding claim 10, said at least one of said plurality of wall sections is a rear wall (since applicant has not defined where the rear wall is).

Regarding claim 11, said at least one of said plurality of wall sections is an upper wall.

Regarding claim 12, said shielding plate body emits electromagnetic waves being coupled out of said shielding plate body and radiated into the interior of the metal structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldon in view of Kurtz. Regarding claim 2, Waldon discloses the invention substantially as claimed except for the slot antenna having a length of $\pi/2$ of the electromagnetic waves emitted. However, Kurtz discloses in claim 2, a slot antenna 40

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having a length of $\pi/2$ of the electromagnetic waves emitted. Therefore, it would have been obvious to one of ordinary skill to modify the shielding plate of Waldon by having a length of the slot $\pi/2$ of the electromagnetic waves emitted as taught by Kurtz to obtain excitation in equal phases.

Regarding claim 6, Waldon discloses the invention substantially as claimed except for the slot antennas having different lengths formed in said shielding plate body. However, slot antennas having different lengths formed in said shielding plate body are well known in the art as evidenced by Kurtz, (see table 1). Therefore, it would have been obvious to one of ordinary skill to modify the shielding plate of Waldon by having slot antennas having different lengths formed in said shielding plate body.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waldron in view of Glabe et al. 5,748,142. Waldron discloses the invention substantially as claimed, except for absorber material applied over said elongate openings formed in said shielding plate body. However, absorber material for absorbing electromagnetic waves and being applied over elongate openings formed is well known in the art as evidenced by Glabe et al. Glabe et al. disclose absorber material applied over elongate openings (col. 1, lines 40-45). Therefore it would have been obvious to one of ordinary skill in the art to modify the shielding plate of Waldron by providing an absorber material applied over the elongated openings for absorbing electromagnetic waves as taught by Glabe et al.

Response to Arguments

Applicant's arguments filed July 26, 2007 have been fully considered but they are not persuasive. In response to applicant's argument that Waldon does not have region with a discontinuity. The Examiner disagrees. Applicant discloses the discontinuity as being defined by a "port". Waldon discloses a port.

Apparatus claims must be structurally distinguishable from the prior art. Applicant has not recited any structure that is distinguishable from the applied art.

While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). Applicant has not recited any structure that is distinguishable from the applied art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

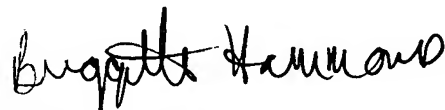
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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brigitte R. Hammond whose telephone number is 571-272-2006. The examiner can normally be reached on Mon.-Thurs. and Alternate Fridays from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula A. Bradley can be reached on 571-272-2800 ext. 33. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brigitte R. Hammond
Primary Examiner
Art Unit 2833

August 13, 2007